

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

JONES, ET AL.

Plaintiffs,

v.

Varsity Brands, LLC, ET AL.,

Defendants.

Case No. 2:20-cv-02892-SHL-tmp

**DECLARATION OF STEVEN J.
KAISER IN SUPPORT OF
DEFENDANT CHARLESBANK'S
OPPOSITION TO PLAINTIFFS'
MOTION FOR LEAVE TO FILE
LATE-PRODUCED DOCUMENT
IN OPPOSITION TO SUMMARY
JUDGMENT**

DECLARATION OF STEVEN J. KAISER

I, Steven J. Kaiser, declare:

1. I am counsel at Cleary Gottlieb Steen & Hamilton LLP, counsel for Defendant Charlesbank Capital Partners, LLC ("Charlesbank") in the above-captioned matter. I am a member in good standing of the Bar of the District of Columbia and have been admitted *pro hac vice* in the United States District Court of the Western District of Tennessee in this matter.

2. I make this declaration based upon my personal knowledge.

3. On September 17, 2021, Plaintiffs cited the document they seek to add to their summary judgment opposition as it appeared on Charlesbank's website in a discovery submission to this Court. *See* ECF No. 102 (sealed) at 11 n.11.

4. On April 1, 2022, Defendant Charlesbank produced five different versions of the document that Plaintiffs seek to add to their opposition to summary judgment in this matter, as

part of ordinary fact discovery. Those five produced versions bear Bates numbers CB00202737; CB00097632; CB00201478; CB00202734; and CB00206000.

5. On October 3, 2023, more than a year after the close of fact discovery in these cases and nearly three weeks after Plaintiffs filed their opposition to Charlesbank's motion for summary judgment, Plaintiffs sent me an email inquiring about the website version of this document, which, they said, no longer appeared on Charlesbank's website.

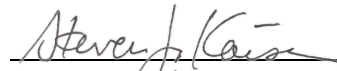
6. On October 6, 2023, I responded to Plaintiffs' inquiries, attaching a courtesy copy of the website-version of the document, marked with Bates number CB00546529.

7. Attached hereto as Exhibits A-E, respectively, are true and correct copies of redline comparisons between the website-version of the document, CB00546529, and each of the versions of the document produced by Charlesbank on April 1, 2023, as part of regular discovery: CB00202737; CB00097632; CB00201478; CB00202734; and CB00206000.

8. Attached hereto as Exhibit F is a true and correct copy of correspondence between me and counsel for Plaintiffs on this matter, dated October 3, 2023, through October 18, 2023.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 14, 2023 in Washington, D.C.


Steven J. Kaiser